

**Notice No.:** 97-001

**Date:** July 21, 1997

**Applies to:** All Employers

**Subject:** Summary of 1997 Legislation

This Notice summarizes the bills passed during the 1997 legislative session which affect employers and members of the Washington State retirement systems. It does not offer legal interpretations or detailed instructions for how a bill will be implemented. You will receive additional information about any legislation that may require changes in your reporting to the Department of Retirement Systems (DRS) or your processing of retirement information later this year.

**SHB 1104**  
**SSB 5218—An Act Relating to Restrictions on Post Retirement Employment**

**Applies to:** All employers

**Effective Date:** July 27, 1997

**Summary:** For Public Employees' Retirement System (PERS) Plans 1 and 2 and Teachers' Retirement System (TRS) Plans 1, 2 and 3, a person is considered a retiree when his or her benefit begins to accrue, which is the first day of the calendar month following the member's separation from service. Separation from service is defined consistently across the TRS, PERS, and LEOFF statutes as the date a person has ended all employment with an employer.

SSB 5218 confirms the Department's practice of using the "right of control" test to determine whether a worker is an employee or an independent contractor. A person providing services to an employer is an employee, unless the person is free from the employer's direction and control over the performance of work. Refer to WAC 415-02-110 for additional information.

If a TRS or PERS retiree returns to work before one full calendar month from his or her benefit accrual date, the retiree's monthly retirement allowance will be reduced. The

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formula to compute the reduction will be 5.5 percent of the monthly benefit for every day of work up to twenty days per month. In TRS, a day is defined as seven hours and in PERS a day is eight hours. This benefit reduction will continue until the retiree is unemployed for one full calendar month. These new post retirement rules, regarding retirees returning to work, do not apply to LEOFF retirees.

Assuming the full calendar month break in service requirement has been met, all retirees from PERS and TRS, except TRS Plan 1, can work in an eligible position for up to five months within a calendar year without their pension being affected. Once a retiree, except TRS Plan 1, enters the sixth month of employment in an eligible position, the member's pension will be suspended until January of the following year or upon termination of employment. TRS Plan 1 retirees will continue to be able to work up to 525 hours each fiscal year July through June without their pension being impacted.

A retiree employed in an eligible position is no longer mandated back into PERS membership. The retiree can choose whether or not to re-enter membership on a prospective basis.

DRS is developing procedures for employers to follow to inform DRS when they hire a retiree. A DRS Notice will follow in July 1997 with more details.

#### **SB 5222**

#### **HB 1102—An Act Relating to Retirement Benefits Based on the Definition of Excess Compensation**

**Applies to:** PERS and TRS

**Effective Date:** July 27, 1997

**Summary:** Amends the definition of "excess compensation" to establish that only the specific forms of payments listed in the statute, such as cash-outs of sick leave, severance payments, etc., are considered excess compensation. The concept of regular salary is removed from the definition of excess compensation. Refer to RCW 41.50.150 for the statute's specific language.

#### **SB 5219**

#### **HB 1099—Transferring Prior Service in the LEOFF Pension System Plan 1**

**Applies to:** LEOFF, WSPRS, PERS and TRS

**Effective Date:** July 27, 1997.

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**Summary:** Former LEOFF 1 members who are now active members of PERS, TRS or WSPRS will be given the option to transfer their prior LEOFF 1 service credit to their current retirement system and plan. Members who have withdrawn contributions from LEOFF 1 will have an opportunity to restore for the purpose of transferring. Upon transfer, all ties with LEOFF 1 will be severed, including post retirement medical benefits. In July, DRS will send an informational packet, through their current employer, to each affected LEOFF Plan 1 member. The packet will advise them of their right to transfer previous LEOFF Plan 1 service credit to their new system and plan. If the member chooses to transfer, the member's service credit and contributions will be moved directly into the new system and plan with no additional cost to the employer.

**SB 5223**

**HB 1098—TRS Plan 3 Transfer Payment Increases from 20 Percent to 40 Percent.**

**Applies to:** Eligible Plan 2 members who transfer to TRS Plan 3. For a complete definition of eligibility requirements to receive the transfer payment, refer to RCW 41.32.8401.

**Effective Date:** July 27, 1997

**Summary:**

- ▶ The additional payment made to the defined contribution accounts of members who transfer from Plan 2 to TRS Plan 3 increased from 20 percent to 40 percent of the members' January 1, 1996, accumulated contributions.
- ▶ A member must transfer before January 1, 1998, and earn service credit in January 1998 to receive the payment.
- ▶ The member who is a substitute teacher must establish service credit for January 1998, and establish any service credit from July 1996 through December 1997. The member must elect to transfer on or before March 1, 1999, to receive payment.

A DRS Notice will follow by mid-September with more detailed information about the transfer process.

**SSB 5365**

**SHB 1550—Disability Retirement Benefits Resulting from Criminal Conduct**

**Effective Date:** April 21, 1997

**Applies to:** PERS, TRS and LEOFF

**Summary:** Disability benefits will not be paid to a member whose disability resulted from criminal conduct by the member. This change applies to any member of PERS, TRS or LEOFF who engages in criminal conduct after the effective date of the act. DRS will work directly with the members to advise them of any changes to their benefit.

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**HB 1103****SB 5221—An Act Relating to Eligibility for Survivor Benefits**

<b>Applies to:</b> PERS, TRS, LEOFF Plan 2 and JRS
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**Effective Date:** April 19, 1997

**Summary:** Survivors of TRS 1 and PERS 1 disability retirees or disability retirement applicants have the option of choosing between the active member survivor benefit or disability retiree's survivor benefit if the member dies within 60 days after applying for disability retirement.

DRS staff is available to respond to members' questions and can be reached at (360) 709-4700.

**Questions?**

If you have questions about any of the bills summarized in this Notice, please contact Carole Mills in the DRS Legislative/Legal Affairs Unit. She can be reached by phone at (360) 709-4746.

Legislative information concerning retirement topics can be accessed through the DRS Home Page at <http://www.wa.gov/DRS/drs.html> or <http://leginfo.leg.wa.gov>

John Charles  
Director

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## 1996 DRS Notices

For a copy of a Notice, call (360) 586-4515.

<b>Notice No.</b>	<b>Applies to/ Subject matter</b>
96-001	<b>PERS, LEOFF, WSPRS and JRS employers</b> Members' annual statements and sequencing information
96-002	<b>School District employers</b> Service credit statements for PERS members
96-003	<b>All employers</b> Change in DRS telephone numbers
96-004	<b>TRS employers</b> Post-retirement employment of TRS Plan 1 retirees
96-005	<b>All employers</b> New Beneficiary Designation forms
96-006	<b>TRS employers</b> Reporting investment information for TRS Plan 3 members
96-007	<b>School District employers of PERS member</b> Ineligible position resolutions for classified substitute employees
96-008	<b>TRS employers</b> TRS Plan 3 employer information
96-009	<b>School District employers</b> Teachers' Substitute Reports
96-010	<b>LEOFF and WSPRS employers</b> Contribution rate changes
96-011	<b>TRS employers</b> TRS Plan 3 Transmittal Correction form
96-012	<b>TRS employers</b> Members' annual statements and sequencing information
96-013	<b>TRS employers</b> Revised Rate Selection form for Plan 3 members
96-014	<b>LEOFF and WSPRS employers</b> Requirements for new \$150,000 survivor benefit
96-015	<b>PERS, LEOFF, WSPRS and JRS employers</b> Members' annual statements and sequencing information